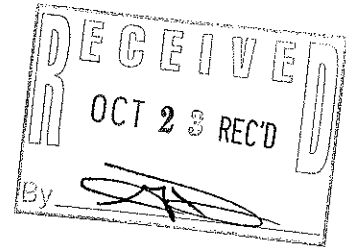




**Supreme Court**  
STATE OF ARIZONA



FROM THE CHAMBERS OF  
REBECCA WHITE BERCH  
CHIEF JUSTICE

October 23, 2009

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The Honorable Jan Brewer  
Governor of Arizona  
Arizona State Capitol  
1700 West Washington Street  
Phoenix, Arizona 85007-2826

Dear Governor Brewer:

Enclosed is the current Budget Reduction Plan for the Judicial Branch. As you know, the Judicial Branch has already been cut or had funds swept totaling \$34 million during the past two years. Our General Fund appropriation is now lower than it was in 2000, a decade ago.

In preparing our Plan, we followed these principles:

1. Preserve the Branch's ability to carry out its constitutional obligations and thus avoid a legal challenge;
2. Minimize, to the extent possible, the impact of the cuts on public and community safety; and
3. Identify ways in which the Judicial Branch itself or by working cooperatively with other departments of state and local government can increase revenue or reduce operational costs.

I believe our Plan honors all three principles.

As you read our Plan, you will quickly discover that, as suggested in the budget reduction guidance provided by your office, it offers neither across-the-board cuts nor the elimination of specific programs. Based on our analysis, we concluded to do either would jeopardize public safety, invite litigation, and cost the State more, not less, money by exploding the commitments to DOC and ADJC.

The cornerstone of our Plan is to recoup all or a portion of the State's share of superior court judges' salaries from the counties. The State's share is currently 50%. We recognize this transfer comes at a time when counties, like the State, are struggling to balance their budgets. Accordingly, we have included in our Plan new fees and other revenue-generating actions to mitigate all of these new salary costs. We have

The Honorable Jan Brewer  
October 23, 2009  
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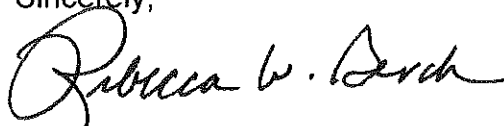
proposed new or increased revenues in past budget cut plans and have delivered on each one.

Our Plan will require legislation, which we will submit in the near future. My staff has already contacted the County Supervisors Association and also will discuss our Plan with key Legislators.

As State leaders we face a daunting task. I promise you that the Judicial Branch will do its best to participate in finding solutions. As you move ahead with formulating your plan for the State, I hope you will support our budget-reduction plan recommendations.

As always, please do not hesitate to contact me or Dave Byers if you or your staff have questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Rebecca W. Berch". The signature is fluid and cursive, with the first name being the most prominent.

Rebecca White Berch

RWB:jrr

Enclosure

cc: David K. Byers, Director, Administrative Office of the Courts  
Eileen Klein, Chief of Staff, Office of the Governor



# **Judicial Department's Budget Reduction Plan**

**Fiscal Year 2010  
&  
Fiscal Year 2011**

**October 23, 2009**

## **Judicial Department's Budget Reduction Plan FY 2010 & FY 2011**

### ***The Judicial Branch state budget has already been reduced to FY 2000 level.***

Arizona courts are funded from state, county, and city funds. The Judicial Department's state budget is only about 1.4% of the state General Fund. No amount of cutting will have any significant impact on the state General Fund budget deficit; however, the courts can take other actions that will have a significant impact on increasing state revenue and decreasing state costs.

The state budget for the Judicial Branch was cut or had funds swept totaling \$34 million during the last two fiscal years. The State General Fund appropriations for the Judicial Branch are now at the FY 2000 level.

### ***Across-the-board cuts or elimination of a Judicial Branch "function" are unacceptable options.***

The Governor has requested options to cut up to 15%, which represents \$14.1 million of the Judicial Branch budget. In then-OSPB Director Klein's letter to agency directors, she advises "...you will not be able to reach this [15%] target by enacting across-the-board budget reductions, especially in light of reductions made to date." She further advises that "This request will require you...to assess what functions you simply can no longer afford to perform."

Implementing additional across-the-board cuts to Supreme Court and Court of Appeals budgets will significantly impact the ability of these courts to perform their constitutional duties. An efficient, fair, and timely civil justice system is "...likely to impact important business decisions...such as where to locate or do business..." (US Chamber of Commerce-2008 State Liability Systems Ranking Study). In these economic times, the Judicial Branch needs to be considered an asset when businesses consider relocating to or expanding in Arizona. Additionally, more cuts may prompt a constitutional confrontation between the branches that we believe is avoidable.

Making cuts of this magnitude to our other statutorily-assigned functions also will have significant public safety implications. Eighty-one percent of all State funding is appropriated to the Superior court; 95% of these funds support adult and juvenile probation. A 15% cut to State-funded probation operations would require probation departments statewide to eliminate 300+ jobs. Worse yet, a 15% cut made at mid-year equates to a 30% reduction. Chaos would ensue in the criminal and juvenile justice systems. Lawsuits should be expected. Moreover, changes this significant to sentencing, supervision, and probation department workforce reductions would threaten public and officer safety. Finally, based on past experience, a work force reduction likely would result in an increase in commitments to prison and to juvenile corrections at an even greater cost to the state.

***There is one option that results in significant State budget savings.***

As we considered various state budget reductions options, one emerged as a possible way for the Judicial Branch to participate in the state budget reduction without negatively impacting public safety or constitutional functions of the Judicial Branch. Two years ago, Maricopa County budget officials recommended it assume responsibility for the State's share (50%) of superior court judges' salaries to the counties. We did not support the transfer of this salary obligation at that time because the proposal was limited to Maricopa County, would establish a bifurcated salary structure for state judicial officers, and the reduction was not needed to absorb cuts to the Judicial Branch state budget. Long term, we still do not think such a funding shift is a good idea. The Superior Court is a single state court, and state funding should support judicial salaries. However, given the dire circumstances of the state budget, we have concluded billing the counties for up to 100% of the State's share of Superior Court salaries for the next two years is the best of the bad choices that remain. This recoupment of all or a portion of the state share of Superior Court judges' salaries is also consistent with the Legislature transferring all of the State's share of justices of peace salaries to Maricopa County and half of the State's share to the other 14 counties during one of the 2009 special budget sessions.

Recouping the State's entire obligation for Superior Court judges' salaries from the counties would result in the following State budget savings for the remainder of this fiscal year and the next fiscal year:

FY 2010: \$8.5 million (effective December 1, 2009)

FY 2011: \$14.8 million (effective July 1, 2010)

Reducing the State's share to 25% would generate savings of \$4.25 million in FY 2010 and \$7.4 million in FY 2011.

***Our plan increases revenues to the counties to offset the impact on county budgets.***

Recognizing the above-mentioned recoupment would impact county budgets, our plan also proposes to increase local revenues sufficient to offset the impact. In particular, we propose the following:

1. Establishing a statewide traffic fine and fee amnesty program authorized in ARS § 28-1601, in an attempt to increase the payment of fines, fees, and surcharges. Projected new revenue for FY 2010: \$2 million; for FY 2011: \$4 million.
2. Establishing several new fees including, for example, a pre-sentence report fee, prosecution fee, and a continuance fee. Projected new revenue for FY 2010: \$3.15 million; for FY 2011: \$6.3 million.

3. Revising state statute to eliminate the mandatory \$12 minimum juror per diem fee and authorizing the Board of Supervisors in each county to reduce or eliminate the juror fee.  
Projected savings to counties for FY 2010: \$1 million; for FY 2011: \$2 million.
4. Expanding the FARE program in Pima and Maricopa Counties.  
Projected new revenue for FY 2010: \$2.3 million; for FY 2011: \$2.8 million.
5. Asking Congress to authorize IRS tax intercept program.  
Projected new revenue for FY 2011: \$38.5 million.

***We can supplement the Judicial Branch budget savings by reducing juvenile offender diversion funding and transferring a fund balance from the photo enforcement fund.***

If the county attorney diverts the prosecution of juvenile offenders to the juvenile court, statute requires "the juvenile officer shall conduct a personal interview with the alleged juvenile offender." We can reduce the general fund appropriation provided for this purpose by \$170,000 in FY 2010 and \$660,000 in FY 2011, provided the Legislature increases the juvenile diversion fee from \$50 to \$100 to offset these budget reductions.

During the 48th Legislature Second Regular Session, House Bill 2210 passed, authorizing and establishing the state photo enforcement program. The legislation further authorized creation of the Department of Public Safety photo enforcement fund and appropriated monies from the fund to the Administrative Office of the Courts for processing of state photo enforcement citations. The AOC has a fund balance of \$700,000 from FY 2009 receipts that is unencumbered and available as a one-time transfer to the State General Fund.

***We can reduce probation revocations to prison and commitments to ADJC to save State incarceration costs.***

Last year we set a goal of reducing adult probation revocations by 5%. We exceeded that goal, and revocations were reduced by 12%. We believe we can further reduce revocations by another 5%, saving the state an additional \$1.9 million in FY 2010 and \$3.7 million in FY 2011.

In addition, we believe we can assemble a plan to reduce the number of juvenile offenders committed to ADJC by 15 in FY 2010 and by 30 in FY 2011. Each juvenile committed to the State's juvenile corrections department costs the State approximately \$100,000. Thus, reducing the number of commitments would result in an estimated \$1.5 million in savings in FY 2010 and \$3 million in savings in FY 2011.

We believe such savings is achievable by increasing use of juvenile intensive probation services and using juvenile detention centers for commitments of up to one year, as allowed by law, rather than committing juvenile offenders to ADJC. This proposal also would help ADJC achieve its 15% budget reduction.

## Budget Reduction Plan Summary

			FY 2010	FY 2011
I.	GF Cuts/ Sweeps	Superior Court Judges' Salary billed to County	\$8.5M	\$14.8M
		Cut Diversion Funding and replace w/fee increase from \$50 - \$100	\$170K	\$660K
		One-time Photo Radar Sweep – FY 2009	\$700K	
		<b>Subtotal</b>	<b>\$9.37M</b>	<b>\$15.46M</b>
II.	Aid to Counties- Assistance to offset GF shift	Establish New Fees (Presentence report fee, prosecution fee; continuance fee)	\$3.2M	\$6.3M
		Authorize BOS to Set Juror Per Diem Fee	\$1.0M	\$2.0M
		Traffic Amnesty Program	\$2.0M	\$4.0M
		FARE (Pima/Maricopa JP)	\$2.3M	\$2.8M
		Federal Tax Intercept Program		\$38.5M
		<b>Subtotal</b>	<b>\$8.5M</b>	<b>\$53.6M</b>
III.	Reduce State GF cost	Reduce DOC Revocations 5%	\$1.9M	\$3.7M
		Reduce ADJC Commitments	\$1.5M	\$3.0M
		<b>Subtotal</b>	<b>\$3.4M</b>	<b>\$6.7M</b>
		<b>Total State GF Savings</b>	<b>\$12.8M</b>	<b>\$22.2M</b>